



National Highway Traffic Safety Administration

Petition for Exemption from the Federal Motor Vehicle Theft Prevention Standard;

Volkswagen Group of America, Inc.

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the Volkswagen Group of America, Inc.'s (Volkswagen) petition for exemption from the Federal Motor Vehicle Theft Prevention Standard (theft prevention standard) for its Audi e-tron GT vehicle line beginning in model year (MY) 2023. The petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the theft prevention standard. Volkswagen also requested confidential treatment for specific information in its petition. Therefore, no confidential information provided for purposes of this notice has been disclosed.

DATES: The exemption granted by this notice is effective beginning with the 2023 model year.

FOR FURTHER INFORMATION CONTACT: Carlita Ballard, Office of International Policy, Fuel Economy, and Consumer Programs, NHTSA, West Building, W43-439, NRM-310, 1200 New Jersey Avenue, S.E., Washington, DC 20590. Ms. Ballard's phone number is (202) 366-5222. Her fax number is (202) 493-2990.

SUPPLEMENTARY INFORMATION

Under 49 U.S.C. chapter 331, the Secretary of Transportation (and the National Highway Traffic Safety Administration (NHTSA) by delegation) is required to promulgate a theft prevention standard to provide for the identification of certain motor vehicles and their major replacement parts to impede motor vehicle theft. NHTSA promulgated regulations at 49 CFR

part 541 (theft prevention standard) to require parts-marking for specified passenger motor vehicles and light trucks. Pursuant to 49 U.S.C. 33106, manufacturers that are subject to the parts-marking requirements may petition the Secretary of Transportation for an exemption for a line of passenger motor vehicles equipped with an antitheft device as standard equipment that the Secretary decides is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements. In accordance with this statute, NHTSA promulgated 49 CFR part 543, which establishes the process through which manufacturers may seek an exemption from the theft prevention standard.

49 CFR 543.5 provides general submission requirements for petitions and states that each manufacturer may petition NHTSA for an exemption of one vehicle line per model year. Among other requirements, manufacturers must identify whether the exemption is sought under § 543.6 or § 543.7. Under § 543.6, a manufacturer may request an exemption by providing specific information about the antitheft device, its capabilities, and the reasons the petitioner believes the device to be as effective at reducing and deterring theft as compliance with the parts-marking requirements. Section 543.7 permits a manufacturer to request an exemption under a more streamlined process if the vehicle line is equipped with an antitheft device (an “immobilizer”) as standard equipment that complies with one of the standards specified in that section.¹

Section 543.8 establishes requirements for processing petitions for exemption from the theft prevention standard. As stated in § 543.8(a), NHTSA processes any complete exemption petition. If NHTSA receives an incomplete petition, NHTSA will notify the petitioner of the

¹ 49 CFR 543.7 specifies that the manufacturer must include a statement that their entire vehicle line is equipped with an immobilizer that meets one of the following standards:

- (1) The performance criteria (subsections 8 through 21) of C.R.C, c. 1038.114, *Theft Protection and Rollaway Prevention (in effect March 30, 2011)*, as excerpted in appendix A of [part 543];
- (2) National Standard of Canada CAN/ULC-S338-98, *Automobile Theft Deterrent Equipment and Systems: Electronic Immobilization* (May 1998);
- (3) United Nations Economic Commission for Europe (UN/ECE) Regulation No. 97 (ECE R97), *Uniform Provisions Concerning Approval of Vehicle Alarm System (VAS) and Motor Vehicles with Regard to Their Alarm System (AS)* in effect August 8, 2007; or
- (4) UN/ECE Regulation No. 116 (ECE R116), *Uniform Technical Prescriptions Concerning the Protection of Motor Vehicles Against Unauthorized Use* in effect on February 10, 2009.

deficiencies. Once NHTSA receives a complete petition the agency will process it and, in accordance with § 543.8(b), will grant the petition if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of part 541.

Section 543.8(c) requires NHTSA to issue its decision either to grant or to deny an exemption petition not later than 120 days after the date on which a complete petition is filed. If NHTSA does not make a decision within the 120-day period, the petition shall be deemed to be approved and the manufacturer shall be exempt from the standard for the line covered by the petition for the subsequent model year.² Exemptions granted under part 543 apply only to the vehicle line or lines that are subject to the grant and that are equipped with the antitheft device on which the line's exemption was based, and are effective for the model year beginning after the model year in which NHTSA issues the notice of exemption, unless the notice of exemption specifies a later year.

Sections 543.8(f) and (g) apply to the manner in which NHTSA's decisions on petitions are to be made known. Under § 543.8(f), if the petition is sought under § 543.6, NHTSA publishes a notice of its decision to grant or deny the exemption petition in the Federal Register and notifies the petitioner in writing. Under § 543.8(g), if the petition is sought under § 543.7, NHTSA notifies the petitioner in writing of the agency's decision to grant or deny the exemption petition.

This grant of petition for exemption considers Volkswagen Group of America, Inc.'s (Volkswagen) petition for its Audi e-tron GT vehicle line beginning in MY 2023.

I. Specific Petition Content Requirements under 49 CFR 543.6

Pursuant to 49 CFR part 543, Exemption from Vehicle Theft Prevention, Volkswagen petitioned for an exemption for its specified vehicle line from the parts-marking requirements of

² 49 U.S.C. 33106(d).

the theft prevention standard, beginning in MY 2023. Volkswagen petitioned under 49 CFR 543.6, Petition: Specific content requirements, which, as described above, requires manufacturers to provide specific information about the antitheft device installed as standard equipment on all vehicles in the line for which an exemption is sought, the antitheft device's capabilities, and the reasons the petitioner believes the device to be as effective at reducing and deterring theft as compliance with the parts-marking requirements.

More specifically, § 543.6(a)(1) requires petitions to include a statement that an antitheft device will be installed as standard equipment on all vehicles in the line for which the exemption is sought. Under § 543.6(a)(2), each petition must list each component in the antitheft system, and include a diagram showing the location of each of those components within the vehicle. As required by § 543.6(a)(3), each petition must include an explanation of the means and process by which the device is activated and functions, including any aspect of the device designed to: (1) facilitate or encourage its activation by motorists; (2) attract attention to the efforts of an unauthorized person to enter or move a vehicle by means other than a key; (3) prevent defeating or circumventing the device by an unauthorized person attempting to enter a vehicle by means other than a key; (4) prevent the operation of a vehicle which an unauthorized person has entered using means other than a key; and (5) ensure the reliability and durability of the device.³

In addition to providing information about the antitheft device and its functionality, petitioners must also submit the reasons for their belief that the antitheft device will be effective in reducing and deterring motor vehicle theft, including any theft data and other data that are available to the petitioner and form a basis for that belief,⁴ and the reasons for their belief that the agency should determine that the antitheft device is likely to be as effective as compliance with the parts-marking requirements of part 541 in reducing and deterring motor vehicle theft. In support of this belief, the petitioners should include any statistical data that are available to the

³ 49 CFR 543.6(a)(3).

⁴ 49 CFR 543.6(a)(4).

petitioner and form the basis for the petitioner's belief that a line of passenger motor vehicles equipped with the antitheft device is likely to have a theft rate equal to or less than that of passenger motor vehicles of the same, or a similar, line which have parts-marked in compliance with part 541.⁵

The following sections describe Volkswagen's petition information provided pursuant to 49 CFR part 543, Exemption from Vehicle Theft Prevention. To the extent that specific information in Volkswagen's petition is subject to a properly filed confidentiality request, that information was not disclosed as part of this notice.⁶

II. Volkswagen's Petition for Exemption

In a petition dated November 29, 2021, Volkswagen requested an exemption from the parts-marking requirements of the theft prevention standard for its Audi e-tron GT vehicle line beginning with MY 2023.

In its petition, Volkswagen provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for its Audi e-tron GT vehicle line. Volkswagen stated that its fifth generation transponder-based electronic engine immobilizer antitheft device will be installed as standard equipment on the entire MY 2023 Audi e-tron GT vehicle line, including any sport or special editions within the line. Key components of the antitheft device will include an adapted ignition key (ID-transmitter or "key fob"), body computer 2 (BMC2) as the immobilizer's primary control unit, park lock actuator as a secondary control unit and power control units one and two as secondary control units.

Pursuant to § 543.6(a)(3), Volkswagen explained that its immobilizer device actively incorporates the power control unit into the evaluation and monitoring process. Volkswagen also stated that activation of its immobilizer device occurs automatically after the engine is switched off. Deactivation of the immobilizer device occurs when the ignition is turned on or the key fob

⁵ 49 CFR 543.6(a)(5).

⁶ 49 CFR 512.20(a).

is recognized by the immobilizer control unit. Specifically, when turning on the ignition on/off switch, the key transponder sends a fixed code to the immobilizer control unit. If this is identified as the correct code, a variable code is generated in the immobilizer control unit and sent to the transponder. Volkswagen stated that a secret arithmetic process is then started according to a set of specific equations and that a new variable code is generated every time the immobilizer goes through the secret computing process. The results of the computing process are evaluated in the control unit and if verified, the vehicle key is acknowledged as correct. The engine control unit then sends a variable code to the immobilizer control unit for mutual identification. If all the data matches, the vehicle can be started.

As required in § 543.6(a)(3)(v), Volkswagen provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Volkswagen stated that the antitheft device has been tested for compliance with its corporate requirements, including those for electrical and electronic assemblies in motor vehicles related to performance requirements including electrical system temperature stability, mechanical integrity, electrical performance, electromagnetic compatibility (EMC), environmental compatibility and service life.

In accordance with 49 CFR 543.6(a)(5), Volkswagen provided data on the theft rate of similarly-sized vehicle lines that had been granted an exemption from the parts-marking requirement. Volkswagen also referenced the effectiveness of immobilizer devices installed on other vehicles for which NHTSA has granted exemptions. Specifically, Volkswagen referenced information from the Highway Loss Data Institute which showed that BMW vehicles experienced theft loss reductions resulting in a 73% decrease in relative claim frequency and a 78% lower average loss payment per claim for vehicles equipped with an immobilizer. Volkswagen also stated that the National Crime Information Center's (NCIC) theft data showed that there was a 70% reduction in theft experienced when comparing the MY 1987 Ford Mustang vehicle thefts (with immobilizers) to MY 1995 Ford Mustang vehicle thefts (without

immobilizers).

III. Decision to Grant the Petition

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.8(b), the agency grants a petition for exemption from the parts-marking requirements of part 541, either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of part 541. The agency finds that Volkswagen has provided adequate reasons for its belief that the antitheft device for its vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the theft prevention standard. This conclusion is based on the information the Volkswagen provided about its antitheft device. NHTSA believes, based on the supporting evidence submitted by Volkswagen, that the antitheft device described for its vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the theft prevention standard.

The agency concludes that Volkswagen's antitheft device will provide the five types of performance features listed in § 543.6(a)(3): promoting activation; attracting attention to the efforts of unauthorized persons to enter or operate a vehicle by means other than a key; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

The agency notes that 49 CFR part 541, Appendix A-1, identifies those lines that are exempted from the theft prevention standard for a given model year. 49 CFR 543.8(f) contains publication requirements incident to the disposition of all part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the theft prevention standard.

If Volkswagen decides not to use the exemption for its requested vehicle line, the manufacturer must formally notify the agency. If such a decision is made, the line must be fully marked as required by 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Volkswagen wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Section 543.8(d) states that a part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, § 543.10(c)(2) provides for the submission of petitions "to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in the exemption."

The agency wishes to minimize the administrative burden that § 543.10(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be de minimis. Therefore, NHTSA suggests that if Volkswagen contemplates making any changes, the effects of which might be characterized as de minimis, it should consult the agency before preparing and submitting a petition to modify.

For the foregoing reasons, the agency hereby grants in full Volkswagen's petition for exemption for the Audi e-tron GT vehicle line from the parts-marking requirements of 49 CFR part 541, beginning with its MY 2023 vehicles.

Issued under authority delegated in 49 CFR 1.95 and 501.8.

Raymond R. Posten,

Associate Administrator for Rulemaking.

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